

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ANGEL PETERSON

Plaintiff,

v.

Case No: 17-CV-11733
Hon. Mark A. Goldsmith
Mag. Judge R. Steven Whalen

ANTHONY STEWARD,
OFFICE OF COMMUNITY CORRECTIONS,
ARAMARK, TRINITY, HEIDI WASHINGTON,
AND RASHEED ANSARI,

Defendants.

Angel Peterson
240544
Huron Valley Complex - Womens
3201 Bemis Road
Ypsilanti, MI 48197

Josephine A. DeLorenzo (P72170)
Plunkett Cooney
Attorney for Defendants
Aramark Correctional Services, LLC,
and Rasheed Ansari
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**DEFENDANTS ARAMARK CORRECTIONAL SERVICES, LLC, AND RASHEED
ANSARI'S RESPONSE TO PLAINTIFF'S UNSWORN DECLARATION**

NOW COME Defendants, ARAMARK CORRECTIONAL SERVICES, LLC and
RASHEED ANSARI, by and through their attorneys, PLUNKETT COONEY, and
in Response to Plaintiff's Unsworn Declaration, hereby state as follows:

These Defendants received Plaintiff's Unsworn Declaration dated April

22, 2018 in the mail on April 25, 2018.

Plaintiff's declaration is deficient because its declaration that the "foregoing" is true and correct precedes any other statement by Plaintiff. Further, Plaintiff's Unsworn Declaration is contrary to the record evidence, to include:

- 1) the Court's Financial Department information that it received a check from Plaintiff dated 10/15/2018, (PageID.439);
- 2) Plaintiff's Notice of Appeal that was eventually filed with the Court was dated 10/25/19 and there is no indication of an earlier-sent notice; and
- 3) that Defendants were never served with a Notice of Appeal other than one dated 10/25/2018.

Pursuant to Rule 4(c) of the Federal Rules of Civil Procedure, a notice of appeal filed by an inmate is timely when it is deposited in the institution's internal mail system on or before the last day for filing and if 1) it is accompanied by a 28 USC § 1746 declaration or other evidence showing it was so deposited with postage prepaid; or 2) the federal court of appeals permits a later filing of the declaration. If this Court accepts Plaintiff's unsworn declaration, and if the Court is satisfied as to the proofs that she placed the documents in the prison's legal mail system on October 12, 2018, as stated,

then her notice of appeal would be timely pursuant to *Parissi v. Telechron, Inc.*, 349 U.S. 46 (1955) (notice of appeal valid if timely received by the clerk without payment of the filing fee) and *Houston v. Lack*, 487 U.S. 266, 270 (1988) (notice of appeal is considered filed when delivered to prison mail).

Respectfully submitted,

PLUNKETT COONEY

/s/Rhonda R. Stowers
Rhonda R. Stowers (P64083)
Attorney for Defendants
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Dated: 5-7-19

PROOF OF SERVICE

I hereby certify that on May 7, 2019, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing as well as via US Mail to all non-ECF participants.

/s/Rhonda Stowers
RHONDA STOWERS